

## REMARKS

The Examiner objected to the drawings under 37 CFR 1.83(a).

The Examiner rejected claims 12, 13, 52, 53, 58, 59, 60, 61, 66, 67, 100, 101, 103, 104, 109, 110, 131, 132, 134, 135, 140 and 141 under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the enablement requirement. Also listed under the §112 first paragraph heading, though not specifically rejected, include claims that were grouped as (b) 22, 62 65 105 136; (c) 24 64 107 138; and (d) 25 108, respectively.

The Examiner rejected claim 18 under 35 U.S.C. §112, second paragraph.

The Examiner rejected claim 139 under 35 U.S.C. §112, second paragraph.

The Examiner rejected claims 1-80 and 93-164 under 35 U.S.C. §102(b) as allegedly being anticipated by American Casino Guide 2002 Edition, published by Casino Vacations and known thereafter as “ACG2002”.

The Examiner rejected claims 31-34, 71-74, 114-117 and 145-148 under 35 U.S.C. §103(a) as allegedly being unpatentable over ACG2002 in view of Acres (US 6,319,125 B1), known thereafter as “Acres9125”.

The Examiner rejected claims 35, 75, 118 and 149 under 35 U.S.C. §103(a) as allegedly being unpatentable over ACG2002 in view of Walker et al. (US 2006/0142078 A1), known thereafter as “Walker2078”.

The Examiner rejected claims 36, 76, 119 and 150 under 35 U.S.C. §103(a) as allegedly being unpatentable over ACG2002 in view of Walker et al. (US 2002/0123376 A1), known thereafter as “Walker3376”.

The Examiner rejected claims 12, 13, 18-21, 26, 27, 37-40, 52, 53, 58-61, 66, 67, 77-80, 100, 101, 103, 104, 109, 110, 120-123, 131, 132, 134, 135, 140, 141, 151-154 and 156-164 under 35 U.S.C. §103(a) as allegedly being unpatentable over ACG2002 in view of Walker et al. (US

2003/0060276 A1), known thereafter as "Walker0276". Examiner also alleged in his discussion of the immediately recited claims (numbered (36.) in his answer) that claims 24, 25, 62, 64, 65, 105, 107, 108, 136, 138 and 139 were likewise obvious, though not previously cited in his recitation as listed in his numbered paragraph (30.).

The Examiner rejected claims 23, 63, 106 and 137 under 35 U.S.C. §103(a) as allegedly being unpatentable over ACG2002 in view of Walker 0276.

Applicant respectfully addresses the drawing objections and traverses the §112, §102 and §103 rejections with the following arguments.

**In the Drawings:**

The Examiner objected to the drawings under 37 CFR 1.83(a).

Applicant has respectfully requested that the Examiner replace FIG. 2 with Replacement Sheet 2. . Support for Replacement Sheet FIG. 2 may be found, for example, on page 5, lines 15 – 17 and page 20, line 22 – page 21, line 5 of Applicant’s specification. Also, Applicant asserts that no new matter was added with Replacement Sheet FIG. 2, and that the corrected sheets comply with 37 CFR 1.121(d).

Applicant would also like to address the Examiner’s allegation that “also ‘positive sum game’ has to be shown in the drawings as well.” Applicant respectfully refers the Examiner to the title of the table depicted in FIG. 3, the title of the table depicted in FIG. 4, title of the table depicted in FIG. 5, and title of the table depicted in FIG. 6, respectively. Thereby, Applicant contends that the drawings show each and every feature of the claimed invention.

Therefore, Applicant contends that the drawings are now in condition for allowance.

**In the Specification:**

Applicant amended a paragraph of the specification in order to accord the correct numbering to the parts and elements referenced therein. Specifically, Applicant has respectfully requested that the paragraph starting on page 20, line 22 through page 21, line 5 be replaced with replacement paragraph as articulated *supra*. Applicant asserts that no new matter has been added to the application. The sentence accorded into the amended paragraph is a summarization of the preceding two sentences within the same paragraph. That “[i]n FIG. 2, the house [[20]] 30 is also represented as the house vendor 41, which demonstrates the dual role of house [[20]] 30 as a provider of the game of uncertain outcome and as a vendor” as recited in lines 2-4 of page 21 of the specification.

### 35 U.S.C. § 112, First Paragraph

The Examiner rejected claims 12, 13, 52, 53, 58, 59, 60, 61, 66, 67, 100, 101, 103, 104, 109, 110, 131, 132, 134, 135, 140 and 141 under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the enablement requirement. Also listed under the §112 first paragraph heading, though not specifically rejected, include claims that were grouped as (b) 22, 62, 65, 105, and 136; (c) 24, 64, 107, and 138; and (d) 25 and 108, respectively.

With respect to claims 12, 13, 52, 53, 58, 59, 60, 61, 66, 67, 100, 101, 103, 104, 109, 110, 131, 132, 134, 135, 140 and 141, the Examiner alleges that “the claim(s) contain subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicant respectfully rebuts the Examiner’s allegations in the following paragraphs.

With respect to the claims, the Examiner alleges that they “recite a ‘positive sum game’, which is an economic function theorem between two or more entities, it is not a game to be played or a machine to be played” and that “[t]he ‘game of uncertain outcome’ described as a machine, [could] not express the ‘positive sum game’ theorem and would be misrepresented in figures 1 and 2 of the drawings.” Applicant respectfully disagrees, and puts forth the following arguments against the Examiner’s allegations.

Respectfully, the purpose of a lack of enablement rejection is whether one of ordinary skill in the art could practice the invention without undue experimentation. Applicant refers Examiner, for example, to page 4, line 19 - page 5, line 11; page 6, line 6 though page 9, line 22; page 15, line 13 through page 16 line 15; and pages 23 - 27 of the application for reference to the positive sum game and game of uncertain outcome as recited in the claims.

Specifically, the application on page 4, line 19 through page 5, line 11 articulates that:

The present invention advantageously provides a entrance-exchange structure that provides the player with new satisfactions

or advantages that add to, or replace, the satisfactions that the player currently enjoys from playing an activity of uncertain outcome (e.g., a game of uncertain outcome). For example, the entrance-exchange structure may be configured so that *the player is, on the average, able to advantageously convert a given amount of cash into relevant scrip and then redeem the relevant scrip for items (e.g., goods, merchandise, real property, different scrip, etc.) from a vendor, wherein the items have a greater monetary value than does the given amount of cash.*

The entrance-exchange structure of the present invention advantageously *enables the house to be profitable while providing said satisfactions to the player.*

The entrance-exchange structure of the present invention advantageously generates a virtual currency in the form of the scrip, wherein the virtual currency conveniently facilitates the redemption of the items from the vendor.

The activity of uncertain outcome of the present invention may advantageously be *a positive-sum game.* (emphasis added).

Specifically, the application on page 23, line 2-6 states that:

*The game of uncertain outcome of the present invention is a "positive sum game" in relation to at least one outside vendors if the composite investment of the player, the house, and the at least one outside vendor increases.* Thus the positive sum game is defined in relation to a given group of outside vendors such as: in relation to one specified outside vendor, in relation to all outside vendors, or in relation to a specified group of outside vendors. (emphasis added).

Specifically, the application on page 8, line 22 through page 9, line 8 states that:

C and S do not represent a takehome in an individual game, since a player of the game does not necessarily win each game that the player participates in. *For each 100 games played, the player will win, on the average, 100P games where P is the probability of winning each individual game of the 100 games.* Note that the 100 games may not be the same type of game. For example, some of the 100 games may be Black-Jack, other games may be Craps, and still other games may be Roulette. In the more general case in which the probability of winning an individual game varies (i.e., P is not constant), P is an average probability; e.g., P is  $\Sigma_i/100$  in the preceding example, wherein  $\Sigma_i$  is a summation of  $P_i$  from  $i=1$  to  $i=100$ , and wherein  $P_i$  is the probability of winning game  $i$  ( $i=1, 2, \dots, 100$ ). (emphasis added).

As such, Applicants assert herein that the game of uncertain outcome of the present invention is a “positive sum game” in relation to at least one outside vendors if the composite investment of the player, the house, and the at least one outside vendor increases. That is, the player is, on the average, able to advantageously convert a given amount of cash into relevant scrip and then redeem the relevant scrip for items (e.g., goods, merchandise, real property, different scrip, etc.) from a vendor, wherein the items have a greater monetary value than does the given amount of cash. Further the game of uncertain outcome is not strictly in reference to a machine, but may be any one of a number of games, including for example Black-Jack, Craps, and Roulette. Therefore, as defined and referenced within the application, Applicant respectfully asserts that the claims 12, 52, 58, 60, 61, 66, 100, 103, 104, 109, 131, 134, 135, and 140 are properly enabled such that one skilled in the art can make and/or use the present invention. As such, Applicant asserts that the claims are in condition for allowance.

With respect to claims 13, 53, 59, 67, 101, 110, 132, and 141, the Examiner alleges that the claims “recite a ‘positive participant game’, whereas a player who has won monies can be considered a ‘positive participant’, but a game of uncertain outcome cannot be called a positive participant game or thus outcome would not be uncertain any more.” Applicant respectfully disagrees, and puts forth the following arguments against the Examiner’s allegations.

Applicant refers Examiner, for example, to page 23, line 1 through page 27, line 22; page 23, line 2-6; on page 4, line 19 through page 5, line 11 of the specification for reference to the positive sum game and game of uncertain outcome as recited in the claims.

Specifically, the application on page 4, line 19 through page 5, line 11 articulates that:

The present invention advantageously provides an entrance-exchange structure that provides the player with new satisfactions or advantages that add to, or replace, the satisfactions that the player currently enjoys from playing an activity of uncertain outcome (e.g., a game of uncertain outcome). For example, the entrance-exchange structure may be configured so that *the player*

*is, on the average, able to advantageously convert a given amount of cash into relevant scrip and then redeem the relevant scrip for items (e.g., goods, merchandise, real property, different scrip, etc.) from a vendor, wherein the items have a greater monetary value than does the given amount of cash.*

The entrance-exchange structure of the present invention advantageously *enables the house to be profitable while providing said satisfactions to the player.*

The entrance-exchange structure of the present invention advantageously generates a virtual currency in the form of the scrip, wherein the virtual currency conveniently facilitates the redemption of the items from the vendor.

The activity of uncertain outcome of the present invention may advantageously be *a positive-sum game.* (emphasis added).

Specifically, the application on page 23, line 2-6 states that:

*The game of uncertain outcome of the present invention is a "positive sum game" in relation to at least one outside vendor if the composite investment of the player, the house, and the at least one outside vendor increases.* Thus the positive sum game is defined in relation to a given group of outside vendors such as: in relation to one specified outside vendor, in relation to all outside vendors, or in relation to a specified group of outside vendors. (emphasis added).

Specifically, the application on page 23, line 16 -20 states that:

*Generally, the positive participant is profitable to each participant, namely the player, the house, and at least one outside vendor.* Thus the positive participant game is defined in relation to a given group of outside vendors such as: in relation to one specified outside vendor, in relation to all outside vendors, or in relation to a specified group of outside vendors. (emphasis added).

Specifically, the application states on page 25, line 3 through line 9 states that:

As stated *supra*, in a positive participant game, the game is profitable to the each participant, namely the player and the house vendor. Mathematically, a positive participant game with a house vendor is characterized by:  $\Phi_{P,0} > 0$  and  $\Phi_{H,0} > 0$ . In FIG. 5, the positive participant game is demonstrated by the fact that the Ending Capital exceeds the Investment Capital for each of the player and the house vendor. *Thus, the entrance-exchange*

*structure 10 may be profitable for both the player and the house 30 when the house 30 functions as a house vendor. (emphasis added).*

As such, Applicants assert herein that the game of uncertain outcome of the present invention is a “positive sum game” in relation to at least one outside vendors if the composite investment of the player, the house, and the at least one outside vendor increases. Further, the positive participant game is an example of a positive sum game, further wherein the positive participant game is profitable to each participant, namely the player, the house, and at least one outside vendor. That is, the player is, on the average, able to advantageously convert a given amount of cash into relevant scrip and then redeem the relevant scrip for items (e.g., goods, merchandise, real property, different scrip, etc.) from a vendor, wherein the items have a greater monetary value than does the given amount of cash. Therefore, as defined and referenced within the application, Applicant respectfully asserts that the claims 13, 53, 59, 67, 101, 110, 132, and 141 are properly enabled such that one skilled in the art can make and/or use the present invention. As such, Applicant asserts that the claims are in condition for allowance.

With respect to group (b) claims 22, 62, 65, 105, and 136, the Examiner alleges that the recitations “adapted to guarantee that the player cannot lose” referenced within a game of uncertain outcome is contradictory. Applicant respectfully disagrees, and puts forth the following arguments against the Examiner’s allegations.

Preliminarily, applicant refers Examiner to references in the specification previously cited and discussed, including page 4, line 19 - page 5, line 11; page 6, line 6 though page 9, line 22; page 15, line 13 through page 16 line 15; and pages 23 - 27 of the application for reference to the positive sum game and game of uncertain outcome as recited in the claims. Further, Applicant asserts that enabling support for the immediately referenced claims (22, 62, 65, 105, and 136) may be found, for example, on page 9 and page 26 - 27, respectively. Applicants refer

the Examiner to the entirety of page 9, in which lines 17 through 22 summarize the example articulated on the page, stating:

The preceding scenario is *mathematically equivalent to a situation in which the player always wins (e.g., in every game played) and receives a takehome of \$0.80 (i.e., 80 cents) in cash and 0.25 unit of relevant scrip for each dollar bet in each game played*. Thus C and S, which are defined as expected average values that result from given winning probabilities P or  $P_i$ , could be mathematically simulated by assuming that the player win in every game and that C and S is returned to the player for each dollar bet in every game. (emphasis added).

Also, after page 26 contrasts conventional games of chance with the entrance exchange structure of the present invention (lines 2 through 7), the page continues to provide that:

The entrance-exchange structure 10 may be configured such that the *house 30 guarantees that the player 20 cannot lose more than P percent of the initial betting capital of the player 20*. This means that if the player 20 converts substantially all of the initial betting capital of the player 20 into relevant scrip by playing one or more games of chance, *then the house 30 permits the player 20 to exchange said relevant scrip of the player 20 into (100-P) percent of the initial betting capital of the player 20*. (emphasis added).

Pages 26 through 27 of the application continue on in the above-highlighted discussion, also providing specific numerical references and examples to buttress the statement. Therefore, Applicant respectfully asserts that claims 22, 62, 65, 105, and 136 are enabled and not contradictory to other portions of the application. As such, Applicant respectfully asserts that claims 22, 62, 65, 105, and 136 are currently in condition for allowance.

With respect to group (c) claims 24, 64, 107, and 138, the Examiner alleges that the recitations “guarantee that the player’s initial capital must increase” referenced within a game of uncertain outcome is contradictory. Also, with respect to group (d) claims 25 and 108, the Examiner alleges that the recitations “guaranteeing the Q percent” referenced within a game of uncertain outcome is contradictory. Applicant respectfully disagrees with Examiner’s

allegations on the above-referenced claims, and herein furthers arguments to respectfully rebut the Examiner's allegations.

Applicant refers Examiner to references in the specification previously cited and discussed, including page 4, line 19 - page 5, line 11; page 6, line 6 though page 9, line 22; page 15, line 13 through page 16 line 15; and pages 23 - 27 of the application for reference to the positive sum game and game of uncertain outcome as recited in the claims. Further, Applicant asserts that enabling support for the immediately referenced claims may be found, for example, on page 26 - 27. Specifically, Applicant references page 27, lines 6-12 which states:

The case of  $P=0$  corresponds to a guarantee by the house **30** that the player **20** cannot lose any of the initial betting capital of the player **20**. *The case of  $P<0$  corresponds to the house **30** guaranteeing that the initial betting capital of player **20** must increase by at least  $-P$  percent as a result of playing the game of uncertain outcome.* As an example if  $P= -10$ , then the house is guaranteeing that the initial betting capital of player **20** the player must increase by at least 10 percent as a result of playing the game of uncertain outcome. *Note that for the case of  $P<0$ , one may introduce the variable  $Q=-P$  whereby  $Q>0$ .* (emphasis added).

That is, Applicants assert herein that the game of uncertain outcome of the present invention is a “positive sum game” in relation to at least one outside vendors if the composite investment of the player, the house, and the at least one outside vendor increases. Further, the positive participant game is an example of a positive sum game, further wherein the positive participant game is profitable to each participant, namely the player, the house, and at least one outside vendor. That is, the player is, on the average, able to advantageously convert a given amount of cash into relevant scrip and then redeem the relevant scrip for items (e.g., goods, merchandise, real property, different scrip, etc.) from a vendor, wherein the items have a greater monetary value than does the given amount of cash. Therefore, in knowing the relevant probabilities of the game of uncertain outcome and the rate of return assigned to the scrip in one

or more cases, the present invention may in turn guarantee that the player's initial capital must increase" or also "guaranteeing the Q percent" is a positive percentage, greater than zero. Therefore, as defined and referenced within the application, Applicant respectfully asserts that the claims of group (c) 24, 64, 107, and 138 and group (d) claims 25 and 108, are properly enabled such that one skilled in the art can make and/or use the present invention. As such, Applicant asserts that the claims are in condition for allowance.

### **35 U.S.C. § 112, Second Paragraph**

The Examiner rejected claim 18 under 35 U.S.C. § 112, second paragraph. The Examiner alleges that claim 18 has “an insufficient antecedent basis”. Accordingly, Applicant respectfully asserts that there is an antecedent basis to claim 18 limitation of  $\Phi$ , as claim 18 specifically recites: “ $\Phi_{H,0} > 0$ , wherein  $\Phi_{H,0}$  is a percent profit for the house when functioning as the house vendor.” Therefore, Applicant herein asserts that claim 18 is proper and likewise in condition for allowance.

The Examiner rejected claim 139 under 35 U.S.C. § 112, second paragraph, alleging that “[t]here is insufficient antecedent basis” for the claim. Applicant refers the Examiner to claim 139, where it fully recites, “[T]he method of claim [[107]] 138, wherein if the at least one vendor includes [[the]] a house vendor then the house implements guaranteeing the Q percent by adjustment of a scrip-to-items exchange ratio  $E^{S \rightarrow I}_0$ .” Therefore, Applicant herein asserts that claim 139 has an antecedent basis, and is currently in condition for allowance.

**35 U.S.C. § 102(b)**

The Examiner rejected claims 1-80 and 93-164 under 35 U.S.C. § 102(b) as allegedly being anticipated by American Casino Guide 2002 Edition, published by Casino Vacations and known hereinafter as “ACG2002”.

Applicant respectfully contends that ACG2002 is not prior art under 35 U.S.C. §102(b). Specifically, §102(b) provides that “the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, *more than one year prior to the date of application for patent in the United States*” (emphasis added). The ACG2002 reference is published and copyrighted in 2002. As referenced in the caption, Applicant filed the Application on January 11, 2002. Therefore, as the ACG2002 reference is not “described in a printed publication ... more than one year prior to the date of [Applicant’s] application for patent in the United States”, Applicant respectfully contends that the ACG2002 reference is not §102(b) prior art that may serve as a basis to reject one or more of Applicant’s claims. As such, Applicant asserts that claims 1-80 and 93-164 are not anticipated, and are currently in condition for allowance.

**35 U.S.C. § 103(a)**

The Examiner rejected claims 31-34, 71-74, 114-117 and 145-148 under 35 U.S.C. §103(a) as allegedly being unpatentable over ACG2002 in view of Acres (US 6,319,125 B1), known thereafter as “Acres9125”.

The Examiner rejected claims 35, 75, 118 and 149 under 35 U.S.C. §103(a) as allegedly being unpatentable over ACG2002 in view of Walker et al. (US 2006/0142078 A1), known thereafter as “Walker2078”.

The Examiner rejected claims 36, 76, 119 and 150 under 35 U.S.C. §103(a) as allegedly being unpatentable over ACG2002 in view of Walker et al. (US 2002/0123376 A1), known thereafter as “Walker3376”.

The Examiner rejected claims 12, 13, 18-21, 26, 27, 37-40, 52, 53, 58-61, 66, 67, 77-80, 100, 101, 103, 104, 109, 110, 120-123, 131, 132, 134, 135, 140, 141, 151-154 and 156-164 under 35 U.S.C. §103(a) as allegedly being unpatentable over ACG2002 in view of Walker et al. (US 2003/0060276 A1), known thereafter as “Walker0276”. Examiner also alleged in his discussion of the immediately recited claims (numbered (36.) in his answer) that claims 24, 25, 62, 64, 65, 105, 107, 108, 136, 138 and 139 were likewise obvious, though not previously cited in his recitation as listed in his numbered paragraph (30.).

The Examiner rejected claims 23, 63, 106 and 137 under 35 U.S.C. §103(a) as allegedly being unpatentable over ACG2002 in view of Walker 0276.

In total, the Examiner rejected claims 12, 13, 18 – 21, 22 – 27, 31 – 40, 52, 53, 58 – 67, 71 – 80, 100, 101, 103 – 110, 114 – 123, 131, 132, 134 – 141, 145 – 154, and 156 – 164 under 35 USC §103(a). The Examiner likewise relied upon American Casino Guide 2002 Edition, published by Casino Vacations and known thereafter as “ACG2002” in each and every §103(a) rejection that he articulated against the Applicant’s claims. Applicant respectfully contends that

ACG2002 is not prior art under 35 U.S.C. §103(a), and further, that Examiner's 103(a) rejections against the aforementioned claims were likewise improper.

Specifically, §103(a) provides that:

a patent may not be obtained though the invention is not identically disclosed or *described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.* (emphasis added).

In a previous section of the Examiner's Action, the Examiner alleged the ACG2002 reference was a 35 USC §102(b) piece of "prior art." Herein, the Examiner combines the ACG2002 reference, which he again alleges as "prior art", with various other references in putting forth his alleged §103(a) rejections. However, as previously argued and again articulated herein, the ACG2002 reference cited and relied upon in the §103(a) rejections is not prior art. As such, the §103(a) rejections are respectfully improper.

That is, ACG2002 is published and copyrighted in 2002. As referenced in the caption, Applicant filed the current Application on January 11, 2002. Therefore, as the ACG2002 reference is not "described in a printed publication ... more than one year prior to the date of [Applicant's] application for patent in the United States", Applicant respectfully contends that the ACG2002 reference is not §102(b) prior art that may be combined with other references to serve as a basis to reject one or more of Applicant's claims under §103(a). As such, Applicant asserts that claims 12, 13, 18 – 21, 22 – 27, 31 – 40, 52, 53, 58 – 67, 71 – 80, 100, 101, 103 – 110, 114 – 123, 131, 132, 134 – 141, 145 – 154, and 156 – 164 are not obvious, and are likewise currently in condition for allowance.

## CONCLUSION

Based on the preceding arguments, Applicants respectfully believe that all pending claims and the entire application meet the acceptance criteria for allowance and therefore request favorable action. If the Examiner believes that anything further would be helpful to place the application in better condition for allowance, Applicants invites the Examiner to contact Applicants' representative at the telephone number listed below. The Director is hereby authorized to charge and/or credit Deposit Account 19-0513.

Date: April 20, 2007

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